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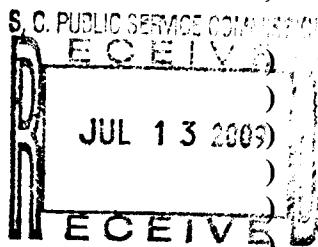
STATE OF SOUTH CAROLINA

(Caption of Case)

Leslie and Mark Hendrix
Complainant/Petitioner,

v.

Utilities Services of South Carolina,
Defendant/Respondent.



BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2009 - 102 - W

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

SC Bar Number: 68269

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Columbia, SC 29202

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Other:

Email: bmustian@willoughbyhoefer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input checked="" type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

Print Form

Reset Form

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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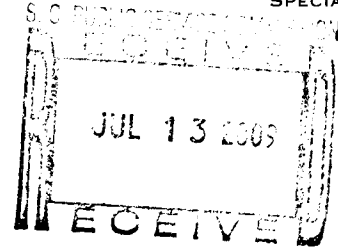
MITCHELL M. WILLOUGHBY
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*ALSO ADMITTED IN TX

July 7, 2009



VIA FIRST CLASS MAIL

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator

Public Service Commission of South Carolina

Post Office Box 11649

Columbia, South Carolina 29211

RE: Leslie and Mark Hendrix, Complainant/Petitioner v. Utilities Services of South Carolina, Inc., Defendant/ Respondent. Docket No.: 2009-102-W

Dear Mr. Terreni:

Enclosed for filing on its behalf of Utilities Services of South Carolina, Inc. ("USSC") are the original and one (1) copy of Defendant's Motion to Strike in the above-referenced matter. By copy of this letter, I am serving a copy of these documents upon the parties of record and enclose a Certificate of Service to that effect.

✓ I would appreciate your acknowledging receipt of these documents by date-stamping the extra copy that is enclosed and returning the same to me in the self addressed enveloped enclosed.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

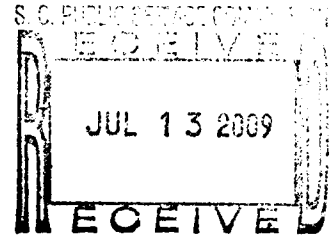
WILLOUGHBY & HOEFER, P.A.

Benjamin P. Mustian

BPM/cf
Enclosures

cc: Jeffrey M. Nelson, Esquire
Leslie and Mark Hendrix

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-102-W



IN RE:)
)
Leslie and Mark Hendrix,)
)
Complainants/Petitioners,)
)
v.)
)
Utilities Services of South Carolina, Inc.,)
Defendant/Respondent)
_____)

MOTION TO STRIKE

Pursuant to 26 S.C. Code Ann. Regs. 103-829 and applicable South Carolina law, Utilities Services of South Carolina, Inc. (“USSC” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to strike portions of the prefiled direct testimony of complainant. In support thereof, the Company would show as follows:

1. Complainant initiated this action by filing a complaint with the Commission on or about February 27, 2009. On or about June 23, 2009, complainant submitted prefiled direct testimony. Therein, complainant included excerpts from the testimony of Ms. Dawn Hipp of the South Carolina Office of Regulatory Staff (“ORS”) as well as an exhibit (“Exhibit”) sponsored by Ms. Hipp in Docket No. 2005-217-WS. Complainant Prefiled Direct Testimony, p. 1. Complainant incorrectly attributes the Exhibit as constituting “claims” made by the Company. Additionally, complainant’s prefiled direct testimony includes statements attributed to ORS staff and other

residents of Dutchman Shores. See Complainant Prefiled Direct Testimony, p. 4-5, first and fourth unnumbered bullet points.

2. USSC submits that the above-referenced portions of complainant's prefiled direct testimony should be stricken as impermissible hearsay. Commission Regulation 103-846.A (Supp. 2008) states that in proceedings before the Commission, "[t]he rules of evidence as applied in civil cases in the Court of Common Pleas shall be followed." South Carolina Rules of Evidence 801(C) defines hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted."

3. The prefiled direct testimony filed by complainant in this matter contains statements made by persons other than complainant and has been offered to prove the truth of the matter asserted and is constitutes inadmissible hearsay. See SCRE, Rule 802. Therefore, USSC respectfully objects to and moves the Commission to strike the following portions of complainant's prefiled testimony from the record of this case:

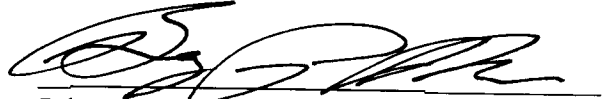
Page 1, third unnumbered paragraph, beginning with the sentence "Instead, in Order No. 2006-22..." through page 2, second unnumbered paragraph ending with the sentence "...implementation of the pass through mechanism."

Page 4, first unnumbered bullet point, the sentence "Staff asserts that our..."

Page 5, fourth unnumbered bullet point beginning with the sentence "USSC explained to Staff..." and ending with the sentence ending "...caught this reading up."

4. In the furtherance of administrative economy, USSC respectfully requests that the Commission delay its consideration of this objection and motion until the hearing on the merits in this matter currently scheduled for August 3, 2009.

Wherefore, USSC respectfully requests that the Commission grant the Company's Motion to Strike as set forth herein and grant such other relief as the Commission deems proper.



John M.S. Hoefer

Benjamin P. Mustian

WILLOUGHBY & HOEFER, P.A.

Post Office Box 8416

Columbia, South Carolina 29202-8416

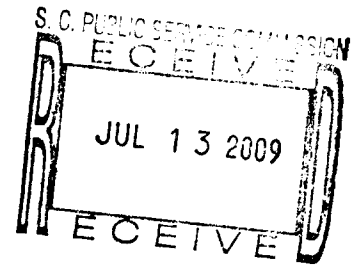
803-252-3300

Attorneys for Defendant/Respondent

Columbia, South Carolina

This 7th day of July, 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-102-W



IN RE:)
)
Leslie and Mark Hendrix,)
Complainant/Petitioner)
)
v.)
)
Utilities Services of South Carolina, Inc.,)
Defendant/Respondent)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of **Defendant's Motion to Strike** in the above-referenced action by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Leslie and Mark Hendrix
125 Dutch Point Road
Chapin, SC 29036

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Clark Fancher
Clark Fancher

Columbia, South Carolina
This 7th day of July, 2009.